#### IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS BROWNSVILLE DIVISION

MICHAEL A. KEETON, an individual; on behalf of himself and all others similarly, Plaintiff, \$

v. \$

CASE NO. 1:14-CV-00131

CONVERGENT OUTSOURCING, a \$

Washington Corporation; LVNV FUNDING, a Delaware Limited Liability Company; and JOHN AND JANE DOES I NUMBERS \$

THROUGH 25

Defendant. \$

# <u>DEFENDANTS' MOTION TO STAY PROCEEDINGS PENDING DECISION FROM</u> JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Convergent Outsourcing, Inc. ("Convergent") and Defendant LVNV Funding, ("LVNV") (collectively "Defendants"), files their Motion to Stay Proceedings Pending Decision from Judicial Panel on Multidistrict Litigation and respectfully show unto the Court as follows:

Defendants request the Court stay all proceedings in the above-captioned case, pending a decision from the Judicial Panel on Multidistrict Litigation ("MDL Panel") regarding Convergent's Motion for Transfer of Actions to the Southern District of Texas Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceeding styled *In re: Convergent Fair Debt Collection Practice Act Litigation, MDL No. 2601* filed on November 11, 2014 ("MDL Motion"). The MDL Panel has set the MDL Motion for hearing on January 29, 2015 in Miami, Florida. *See* Schedule of Matters for Hearing Session (Exhibit A). Judicial economy and efficiency will be promoted by staying proceedings in the present case until the MDL Panel

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determines whether a single judge should preside over pretrial proceedings of the six related

actions in the MDL Motion which contain common factual questions in that all of the plaintiff's

claims arise out of similar purported violations of the Fair Debt Collection Practices Act, 15

U.S.C. § 1692 et seq. (the "FDCPA").

2. The present action has been included in the MDL Motion and this Court would be the

venue for the other related cases for coordinated or consolidated pretrial proceeding. Exhibit A

at 9-10. The Defendants request the Court stay this case while the motion for the transfer of the

present action to the MDL is pending to avoid inconsistent pretrial rulings, duplicative discovery

obligations, overlapping classes, and to promote the just and efficient conduct of this litigation.

Proceeding with the present action despite the pendency of the MDL Motion will likely cause the

parties and the Court to expend substantial resources. Should the MDL Panel transfer this case,

this Court will have jurisdiction of this matter and other related matters for pretrial purposes, and

a single judge will be assigned to determine these issues in all of the Convergent cases pending

nationwide. A temporary stay pending the MDL Panel's decision will alleviate the potential for

wasting judicial and party resources and for unnecessary procedural complexity.

3. The Court has the sole discretion to stay proceedings where it serves the interests of

judicial economy and efficiency.

WHEREFORE, for these reasons, the Defendants respectfully request that the Court stay

this case pursuant to its inherent authority until the MDL Panel rules on the pending MDL

Motion.

Dated: December 30, 2014.

[Full Signature on Following Page]

Respectfully submitted,

### ROBBIE MALONE, PLLC

/s/ Robbie Malone

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COUNSEL FOR DEFENDANT

## CERTIFICATE OF CONFERENCE

This is to certify that on December 29, 2014, counsel for Defendants exchanged e-mails with counsel for Plaintiff's counsel is opposed to Defendants Motion to Stay.

/s/ Xerxes Martin XERXES MARTIN

#### **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been forwarded via CM/ECF on this 30th day of December, 2014 to:

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